

News Notes

of the Central Committee for Conscientious Objectors

CO attorney denied admission to bar

State court upholds decision

The Supreme Court of the State of Washington recently refused to reverse the decision of the Board of Governors of the state bar association denying Robert Boland Brooks, World War II CO, the right to take the state bar examination.

Robert Brooks, Seattle, was graduated from Columbia University law school in 1933 and admitted to the New York state bar in 1934. In 1942-43 Brooks served on the staff of the National Service Board for Religious Objectors and later was director of the National Committee for Conscientious Objectors. During World War II, Brooks was given a CO classification by his draft board but refused to accept civilian work on grounds of conscience. He was convicted of violation of the draft law and sentenced to three years in prison. He served 22 months of the sentence.

The majority opinion, delivered by Justice Mallery with four justices concurring, held that the finding of the Board of Governors that Brooks "is not a man of good moral character," was not arbitrary or capricious. It agreed with the Board that refusal of Brooks to accept civilian CO work was "unjustifiably defiant of the laws of the United States." The court, noting that Brooks, now age 50, would probably not be called for duty in event of another war, stated that "Age alone has not reduced his potential for war resistance to zero. Personal example is neither the only nor most effective way of exemplifying his felonious principles. An old lawyer can impede his country's war effort in many ways as well as a young one."

While paying tribute to Brooks' "laudable preoccupation with civil liberties" the majority opinion further stated that "A loyal and discerning citizen is aware of his great heritage of liberty and acknowledges his duty to his share in preserving it. Without a sense of duty, the applicant does not measure up to the standard of citizenship rightly expected of an attorney at law."

A sixth justice concurred in the majority decision that Brooks' refusal to report to the CO labor camp was unreasonable and not morally justifiable, but expressed disagreement with the broad implication of the majority opinion that a "conscientious objector *per se* is morally unfit to practice law in this state."

The dissenting opinion, delivered by Justice Hill and concurred in by two other justices, held that refusal to accept civilian work on grounds of conscience was not an act involving moral turpitude. "The applicant was defiant of the laws of the United States. He deliberately chose the alternative of imprisonment in a penal institution to service in a civilian public service camp. Does that brand him as having committed an act involving moral turpitude, and as a man 'not of good moral character'? I think not. Through the centuries men and women have suffered death and imprisonment rather than forfeit their integrity of conscience." Justice Hill concluded the dissenting opinion with the statement that "I am challenged, in a day when the trend is to sacrifice principle to expediency, by one who preferred to go to jail rather than do what his conscience said he should not do."

In reaching its decision the Washington Court ignored evidence compiled by CCCO regarding similar cases in other states which have admitted to the bar COs convicted of draft violations. Also disregarded were the 40 letters submitted by Brooks attesting to his good moral character through the years since his conviction. Kenneth A. Cox, attorney for Robert Brooks, reports that a petition for certiorari will be filed with the U. S. Supreme Court.

Graduate deferments eased

Graduate students seeking deferments may now include as part of a full-time graduate course of study teaching and research assistance, preparation for foreign language and other required examinations, and supervised work on a graduate thesis. Operations Bulletin No. 46, issued August 31 by National Selective Service to all local boards, states that certification of full-time graduate study by institutional officials "shall be based on the fact that the student is devoting himself to graduate study and is progressing through his program at the normal rate which will permit completion of requirements for the master's degree in two calendar years, and for the doctoral degree in five calendar years of graduate study beyond the bachelor's degree." This more liberal interpretation of the law and SSS Regulations does not apply to students in the healing arts.

India trip planned

CCCO secretary George Willoughby will travel to India in December to attend the Tenth Triennial Conference of the War Resisters International which will be held at Gandhigram, near Madras, December 21-28. More than 300 persons from over 25 countries are expected to attend. Willoughby will attend the conference as a delegate from the American Fellowship of Reconciliation. One other American, Bayard Rustin, executive secretary of the War Resisters League of the U. S., will represent that organization.

Willoughby also plans to visit with pacifist leaders in other Asian countries before returning to the United States. He will also explore provisions for conscientious objectors in many of these countries which have conscription laws or are contemplating such laws. He will fly from Japan to Honolulu to visit the scene of his "crime" of two years ago before returning to Philadelphia late in January.

During Willoughby's absence from the office, CCCO's counseling service will continue under the direction of J. Barton Harrison, CCCO chairman and Philadelphia attorney, assisted by other members of CCCO's Board and staff.

Navy CO discharged

Ensign Lawrence M. White, Pasadena, Calif., is being honorably discharged from the Navy as a conscientious objector. When White registered for the draft at the age of 18 he filed a CO claim. He stated recently to CCCO that throughout his undergraduated years at Pomona College his pacifist feelings were strong but that after graduation he was in great conflict as to which way to turn. He stated that the military appeared to be a necessary evil and he allowed himself to rationalize his participation in it rather than go to prison as an objector.

White entered on active duty as a Navy officer in March, 1959. Eventually he came to realize that he had made a mistake and could not conscientiously perform his duties as an officer. In September, 1960 he submitted his resignation on grounds of conscientious objection. He stated in his resignation that in joining the Navy "I attempted to rationalize my convictions for the sake of expediency; that is something which I can no longer do. It is impossible for me to continue to wear the uniform and do the job of a Naval Officer when my convictions are those of a Christian pacifist. My commission is a trust—a trust which I can no longer conscientiously fulfill. His commanding officers and chaplain found his religious objections sincere and recommended honorable discharge.

Seeger refuses induction

After exhausting all appeal avenues in an attempt to secure a CO classification, Daniel Seeger, New York City, refused induction into the armed forces on October 20 Seeger, age 25, was raised in the Roman Catholic faith, but has not affiliated himself with any church in recent years. He is active in the work of the American Friends Service Committee.

When Seeger filed the CO questionnaire in 1958 he altered the phrase "religious training and belief" by crossing out the word training and by inserting quotations around the word religious. He did not answer the question as to belief in a Supreme Being with either a yes or no, but instead, stated his belief that "the existence of God cannot be proven or disproven, and the essence of his nature cannot be determined . . ."

The Department of Justice recommended to the New York State Appeal Board that Seeger be denied a CO classification on the ground that his objection to war was not based on religious training and belief, but was philosophical in nature. This recommendation was contrary to the finding of the special hearing officer who interviewed Seeger and concluded that Seeger was completely sincere and honest in his claim, and that his conscientious objection to war was "based upon his individual training and belief, both of which include research in religious and cultural fields."

The Department of Justice ruled that Seeger's answer to the question of belief in a Supreme Being was an "interesting philosophical dissertation on the nature of his belief . . . but it is not responsive to the last part of the question as to whether his belief in a Supreme Being involves duties which to him are superior to those arising from any human relation." In reply to this Seeger stated that "I do not believe that life derives any meaning from cosmic design but I do believe that a person can give his life meaning by doing something worthwhile with it, i.e. by relating his existence in a constructive and compassionate way to the problems of his social environment. In this sense pacifism, among other things, is for me a transcendent concern and it is in this respect that I consider myself religious."

Unless national selective service orders Seeger's classification reopened on grounds of procedural error Seeger will be indicted shortly and brought to trial for refusing induction.

" . . . everyone should do what he in his conscience is persuaded to be acceptable to the Almighty . . . For obedience is due in the first place, to God, and afterwards to the laws."—John Locke, *Concerning Toleration*.

The youth peace corps

Editorial

In the closing days of the election President-elect Kennedy endorsed Senator Humphrey's proposal that the United States establish a Point Four Youth Peace Corps. Kennedy's support has stirred new interest in the exciting possibility of several thousand young American men and women being recruited to help meet the mountain of pressing human needs in the newly developing countries of Africa and Asia. We have some disturbing thoughts about the proposition.

One bothersome question is how do we keep the youth peace corps from becoming an instrument of the cold war in support of United States foreign policy? A youth peace corps administered by Washington and financed by government funds will inevitably be used to further our own foreign policy. How long then before the moral ideal inherent in the proposal is subverted to narrow national ends?

As an alternative we suggest the creation of an international voluntary youth peace corps under United Nations direction and open to young men and women from all lands. Let American youth serve where needed abroad, but let us leave the flag at home where it belongs.

We also question the proposal to allow a man of draft age to offer three years of service in the peace youth corps in lieu of the required two years of military draft duty. If service in the peace corps can be offered in place of military service let it be at least on the basis of equality. We don't like the implication that such service is not as important to the nation as military service. We think it is. Furthermore, if we support the three for two proposal we should not be surprised if at some later date the government proposes that COs render three years of civilian work as a condition of exemption from two years of drafted military duty. The principle of equal substitute for military duty is well established in the draft law. In our enthusiasm for the youth peace corps we ought not to unthinkingly breach this principle.

George Willoughby

Government drops charges

Charges of refusing induction into the Armed Forces were dropped recently by the Department of Justice after John A. Kruse's draft board reopened his classification and classified him 1-0 (CO available for civilian work). Kruse, whose home is in Cranford, New Jersey, made a late request for CO classification in 1958. When his draft board refused to classify him 1-0 Kruse appealed. By the time a hearing before a Department of Justice

hearing officer had been set Kruse had gone to Europe to study. He did not return for the hearing. The Justice Department later ruled that Kruse's objection to war was not based on religious training and belief, but rather on a philosophical or personal moral code, and recommended that he not be classified 1-0.

When ordered for induction Kruse, failed to report. He returned to the U. S. this fall and requested that his classification be reopened. Since the case had already been referred to the Justice department the draft board had no authority to reopen.

Kruse was arrested in October and the U. S. District Attorney in Newark, conferred with New Jersey Selective Service Director and Kruse's draft board, and an agreement was reached to reopen his classification. Kruse is presently performing civilian CO draft work at a New Jersey state hospital.

Briefly noted

Claremont Friends Meeting is distributing copies of a proposed *Civilian Income Tax Bill* which, proposes to establish a civilian income tax fund in the U. S. Treasury into which individuals having sincere convictions against military preparations could pay their income taxes. The proposed bill would require the individual designating the civilian tax fund to pay an additional 5% as proof of his sincerity. It proposes that tax receipts paid into the civilian fund be appropriated by Congress solely to UNICEF. Copies of the proposed bill can be secured from CCCO.

Challenge to Complacency reports the activity and experience of a Young Friends (Quaker) group in Washington, D.C. in sending a letter to 21,000 high school students informing them of the CO alternatives to the draft. In the midst of the project the chairman, *William Martin* was fired from his job with the (see News Notes, May June and July, 1960) Senate Republican Minority Office. The Young Friends report their experience was challenging. They invite others to come forward and speak to those issues. Copies of the report may be secured by writing Washington Young Friends, 2111 Florida Ave., NW., Washington 8, D.C. Price 25c.

The *New York Times* for November 14 reported that the Department of Defense has threatened to draft medical doctors for the first time in three years unless more internes voluntarily enlist in the Armed Forces. Dr. Frank B. Berry, Assistant Secretary of Defense, is quoted as stating that it would request Selective Service to draft 650 doctors if more do not volunteer by December 1. A special draft call for medical personnel could affect any CO doctor in the age group that is called up.

Send Christmas greetings

With the approach of the holiday season readers of NEWS NOTES are reminded that they can express fellowship with and support of the imprisoned COs by sending Christmas greetings. Cards must be individually addressed to the men listed in The Court Reporter and must be signed by the sender whose address may be included. Prison regulations forbid the inclusion of any personnel message; nor may gifts be sent. There is no limit on the number of cards the prisoner may receive.

Readers are also encouraged to send holiday greetings to imprisoned COs in other lands. Write CCCO for this list. If you receive any cards back you will know that the prisoner likely was released sooner than expected. That is always good news.

Court restores citizenship

Congress does not have the power to take citizenship away from one who leaves the country to avoid being drafted stated a special three judge court in Washington, D.C. in October. The court declared unconstitutional a provision in the Immigration and Naturalization Act of 1952 which provided for expatriation of any native born United States citizen who remains outside the U. S. for the purpose of avoiding military service.

The panel of judges, consisting of two U. S. District Court judges and one Appeals Court judge restored citizenship to Dr. Joseph Henry Cort, formerly of Boston, who was ordered to report for induction in 1953 while residing in England. The panel found that Dr. Cort deliberately remained abroad to avoid military service. He was later indicated for failure to report for induction. Dr. Cort is not a conscientious objector. The State Department eventually revoked his citizenship and refused him a passport to return to the United States. Cort filed suit to recover citizenship.

The Court Reporter

Prosecutions

Sentenced since last issue (none reported)

Arrests

Conn.—Rogers Aarons, Madeline Gins, Peter Friedlander, William Henry, Edmund Leites, Donald Martin, Lawrence Orinstein, Victor L. Richmond, Richard Zink.

New Jersey—John A. Kruse, Michael B. Sisk

Released from prison

8-60 Jacob Weaver Nolt (on parole)

Currently imprisoned

Federal Correctional Institution, Allenwood, Pa.
Levi L. Hershberger, David W. Miller, Eli J. Miller, Daniel N. Swartzentruber, Benjamin C. Yoder

Federal Correctional Institution, Sandstone, Minn.
Robert E. McGrath, Neil Haworth, Hiram C. Holdridge Jr., Larry Shumm

Federal Correctional Institution, Tallahassee, Fla.
Hubert Dexine Sprinkle

Total number of COs convicted of Selective Service violations since 1948 to date, 363. This is a minimum number: Jehovah's witnesses and Muslims are not included, and we miss a few.

In reaching its decision the panel relied upon the U. S. Supreme Court decision in *Trop v. Dulles* (356 U. S. 86) in which that court held that even if it is assumed that the power of Congress extends to divestment of citizenship the use of such divestment as punishment is barred by the Eighth Amendment's prohibition against cruel and unusual punishment.

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